IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
APPEAL FROM ORDER NO.294 OF 2007
IN
NOTICE OF MOTION NO.1684 OF 2005
IN
L.C.SUIT NO.1945 OF 2005

Dr.Vijay Kumar Lulla ..Appellant
(Orig.Plaintiff)

Versus

Municipal Corporation of
Greater Bombay and Ors. ..Respondents
(Orig.Defndants)

WITH
APPEAL FROM ORDER NO.295 OF 2007
IN
NOTICE OF MOTION NO.3635 OF 2004
IN
L.C.SUIT NO.4253 OF 2004

Dr.Sharad D.Shinde .. Appellant
(Orig.Plaintiff)

Versus

Municipal Corporation of
Greater Bombay and Ors. .. Respondents
(Orig.Defendants)

WITH
APPEAL FROM ORDER NO.296 OF 2007
IN
NOTICE OF MOTION NO.3636 OF 2004
IN
L.C.SUIT NO.4254 OF 2004

Dr.Ashutosh Rao .. Appellant
(Orig.Plaintiff)

Versus
Municipal Corporation of
Greater Bombay and ors. ..Respondents
(Orig.Defendants)

WITH
APPEAL FROM ORDER NO.297 OF 2007
IN
NOTICE OF MOTION NO.3637 OF 2004
IN
L.C.SUIT NO.4255 OF 2004

Dr.P.H. Nainani & Anr. ..Appellants
(Orig.Plaintiffs)

Versus

Municipal Corporation of
Greater Bombay ..Respondents
(Orig.defendants)

Shri C.U. Kamdar with Shri P.R. Kadam for the Appellant-Plaintiff
Mr. N.V. Walwalkar Senior Advocate with Mrs.Geeta Joglekar for Respondent Nos.1 & 2
Ms. Nilima Sanglikar for Respondent No.3

CORAM : S.R. SATHE,J.
DATED : 19/10/2007

ORAL ORDER :-

1. Heard learned Counsel for both sides at length.

2. Appeals are heard finally at admission stage.

3. The above mentioned four appeals arise out of common order passed by the Judge, City Civil Court, Mumbai in Notice of Motion Nos.1684 of 2005, Notice of Motion No.3635 of 2004, Notice of Motion No.3636 of 2004 and Notice of Motion No.3637 of 2004 respectively.

4. The brief facts giving rise to these four appeals are as under :-

At Manishnagar Andheri (West), Mumbai there are two buildings which are called as 'A' Wing and 'B' Wing and the same are of Andheri Manisha Garden Co-operative Housing Society Limited. There are various flats in the said society. Flat No.B-103 situated on first floor of 'B' Wing is owned by Dr.Vijaykumar Lulla Plaintiff in Notice of Motion No.1684 of 2005. Flat No.A-001 is owned by Dr.Sharad Shinde, Plaintiff in Notice of Motion No.3635 of 2004, Flat No.A-002 is owned by Dr.Ashutosh Rao, Plaintiff in Notice of Motion No.3636 of 2004 and flat No.A-103 and 104 are owned by Dr.P.H. Nianani and Smt.J.L. Amarnani Plaintiffs in Notice of Motion No.3637 of 2004. Defendants in the above mentioned Notices of Motion are common. The defendant No.1 is Municipal Corporation of Greater Bombay (hereafter referred to as 'MCGB'). The defendant No.2 is Asstt. Municipal Commissioner and defendant No.3 is the Andheri Manish Garden Co-operative Housing Society. The above mentioned Plaintiffs are carrying on their medical profession in their respective flats. Though,

Plaintiffs were carrying on their profession accordingly for several years in their respective flats nobody had raised any objection. However, some time in the year 2004 one member of the Society made a complaint to the defendants alleging that Plaintiffs have caused change of user in their respective premises. The concerned officers of Bombay Municipal Corporation, therefore, inspected the suit flats and they found that in the suit flat bearing No.B-103, A-002 and A-103 and 104 the owners of the flat holders have in fact established polyclinics in their respective flats and thus, the said flats were being used for commercial purpose. Corporation officer also noticed that the entire flat No.A-001 was being used as maternity home by Dr.Shinde. The MCGB, therefore, issued notice under section-53(1) of Maharashtra Regional and Town Planning Act, 1966 (hereafter referred to as the said Act) and called upon the Plaintiff to discontinue the said unauthorized use of the premises and to restore the use as per the approved plan sanctioned under No.CE/EB/2626/AK dtd. 01/03/1979 within one month from the date of receipt of the said notice. It was also made clear in the said notice that

if they fail to comply the notice they will be liable for prosecution under the said Act and the aforesaid requisition will be carried at their risk and costs.

5. In view of the above notices, Dr.Vijaykumar Lulla, Dr.Sharad Shinde, Dr.Ashutosh Rao and Dr.P.H. Nainani filed L.C.Suit No.1945 of 2005, L.C.Suit No.4253 of 2004, L.C. Suit No.4254 of 2004, L.C. Suit No.4255 of 2004 respectively for declaration that the notice issued under section 53(1) of the said Act to each one of them is bad in law and for permanent injunction restraining defendants from acting upon the said notices. The above mentioned Plaintiffs also filed Notice of Motion in their respective suits and prayed for temporary injunction restraining defendants from taking action upon the notices issued by the defendant Nos.1 and 2.

6. Defendant Nos.1 and 2 filed their reply and resisted the Notice of Motion on various grounds. Firstly, they contended that suits are bad for want of notice under section-527 of the BMC Act. Secondly, they contended that as a part of executive or administrative

actions suit notices have been issued and as such Plaintiffs are not entitled to challenge the same in view of the provisions of Section-149 of the said Act. They further contended that the officers of MCGB had noticed that flats in question were being used for commercial purpose, contrary to the approved plan and occupation certificate of the said building and the notices issued under section 53(1) were legal and valid. Defendants, therefore, prayed for dismissal of the Notices of Motion.

7. The defendant No.3 Co-operative Housing Society also filed their reply and opposed the Notice of Motion on the same grounds and also contended that as the Plaintiffs are carrying on dispensaries/clinic/ Polyclinics in the residential flats, the same are not legal and the same are causing much hardship, inconvenience and nuisance to the other members of the society. They also contended that defendants are carrying out the said activities without the consent of the society. Hence, defendant No.3 also prayed for the dismissal of the Notices of Motion.

8. After hearing arguments of the learned Advocates on both the sides and considering documents produced by both the parties, learned Judge, City Civil Court Bombay came to the conclusion that Plaintiffs are using their respective flats for medical profession and they have in fact caused change of users and it is not permissible under the said Act and D.C. Regulations. He also held that notices issued under section-53(1) of the said Act by the defendant Nos.1 and 2 are legal and correct and in view of the provisions of Section-149 of the said Act also Plaintiffs are not entitled to challenge the notices in the said Court. He, therefore, held that Plaintiffs have failed to make out any prima facie case for granting temporary injunction and the balance of convenience is also not in their favour. Naturally, he dismissed the above mentioned four notices of Motion by common order.

9. Being aggrieved by the above mentioned common order, Plaintiff in respect Notice of Motion filed separate Appeal from Order. As common questions of facts and law are involved in these appeals and they are arising out of common order, the same are being

disposed of by this common judgement.

10. Shri C.U. Kamdar, learned Advocate for the original Plaintiffs has urged four points before me. Firstly, he submitted that the learned Trial Judge has proceeded on the footing that the provisions of D.C.Regulations, 1991 are applicable to the present case. According to him, as the Plaintiffs in L.C. Suit No.1945 of 2005, L.C. Suit No.4254 of 2004, L.C. Suit No.4255 of 2004 have purchased their respective flats in the year 1980 or thereabout. D.C. Regulation Rules, 1967 are applicable and not D.C. Regulations of 1991. So far as Plaintiff in L.C. Suit No.4253 of 2004 is concerned D.C. Rules of 1991 are applicable as he purchased the property on 21/08/2000. Secondly, he canvassed before me that the defendant MCGB called upon Plaintiffs to stop the use of the premises for the purpose for which they were using it without giving them any opportunity to put forward their say in the matter. It was against the principles of natural justice and as such, notice/order dated 10/08/2004 is bad in law. Thirdly, he submitted that as per the D.C. Rules applicable to the flats in question, Plaintiffs

are entitled to carry on their medical profession or even group medical centre in the suit flats. So, it can not be said that Plaintiffs have caused change of user. Lastly, he submitted that the Trial Court has recorded finding regarding application of Section-149 of the said Act without framing any preliminary issue with regard to jurisdiction and as such the order is not legal and correct. He, therefore, submitted that the learned Trial Judge has wrongly held that Plaintiffs have failed to make out any prima facie case and the balance of convenience is not in their favour. The learned Advocate for the Plaintiff, therefore, submitted that the above mentioned appeals be allowed and the Notices of Motion be granted.

11. As against this, Shri Walawalkar, learned Senior Advocate for MCGB supported the order passed by the learned Trial Judge and submitted that even according to D.C. Regulations, 1967 Plaintiffs were not entitled to use the residential premises for commercial purpose and as admittedly, polyclinics are being conducted in the suit residential flats, the Plaintiffs have in fact caused change of user and as such notice

issued under section 53(1) of the said Act by the MCGB to each Plaintiff was legal and correct. He also submitted that it was in fact open for the Plaintiffs to apply to the Commissioner for seeking necessary permission for polyclinic but the Plaintiffs have not done so. According to him, learned Trial Judge while disposing of Notice of Motion has only considered that having regard to the provisions of Section-149 of the said Act, relief prayed by the Plaintiff can not be granted. The learned Senior Advocate, therefore, submitted that the above mentioned appeals be dismissed with costs.

12. At the outset, it must be mentioned that admittedly, Plaintiffs are using their respective residential flats for their medical profession. It is also not in dispute that flats No.B-103, Flat No.A-002 and flat No.A-103 and A-104 are being used as polyclinic. The defendant No.1 has produced photographs of the name plates displayed at the respective flats. From the perusal of the same, it is very clear that in the flat B-103 of Dr.Lulla there is Belle Vue polyclinic. In flat Nos.A-103 and A-104 of Dr.Nainani,

there are polyclinics by name Rajan Polyclinic, Mukta Polyclinic and in flat Nos.A-002 of Dr.Ashutosh Rao there is polyclinic by name Ashwini clinic. From these photographs it is very evident that several medical practitioner and consultants are doing their medical profession in the above mentioned flats. So, prima facie, it is very clear that the said flats are not at all being used for residence but the same are in fact converted into polyclinics and thus, the same are being used for commercial purpose. So far as flat No.A-001 of Dr.Shinde is concerned, it appears that he is also using the said flat is entirely being used for his medical profession and it is known as 'Ankur Clinic'. So, merely because the said flat is being used by the owner or the flat holder it can not be said that there is no change of user. The question is not as to who is using it but for what purpose the residential flat is being used. This is not a case where the owner or occupier of the residential flat is residing in the said flat in some portion and carrying on his medical profession in some part of the flat. Admittedly, Dr.Shinde is residing at a different place and the flat in question is completely used as clinic which has to

be said to be commercial use.

13. It was tried to be argued on behalf of the Plaintiffs that as per the D.C. Rules, 1967, flat can be used by the medical and dental practitioner for his clinic or dispensary or group medical centre. For this purpose reliance has been placed on D.C. Regulations, 1967, Part-II residential Zone, Clause-7 of the said regulations says.

> ***"7. Use provision in residential zones - In residential zones buildings or premises shall be used only for the following purposes and their accessory uses :-***
>
> ***(i) Any residences ;***
>
> ***(ii) Customary home occupations ;***
>
> ***(iii) Medical and dental practitioners clinics and dispensaries and group Medical Centres."***

However, while considering the said provisions of D.C. Regulations one must also take into consideration clause-3B of the said regulations which runs as follows :-

> ***"(3) Development work to be in conformity with these rules.***
>
> ***(a) .....***

(b) Change of use :- No building or premises shall be changed or converted to a use not in conformity with the provisions of these rules."

14. It must be noted that by virtue of clause-7, provision has been made whereby it is said that if a building is constructed only for the purposes of carrying out medical centre then such building can be constructed even in residential zone. By no stretch of imagination, it can be said that clause-7 mentioned above permits use of residential building for commercial purpose. Clause-7 mainly speaks about the nature of business that can be carried out in the residential zone. That does not mean that building which is constructed for particular purpose as per the sanctioned plan after application of D.C. Regulations Rules can be used for other purpose. So, the premises which are basically residential premises as per the sanctioned plan can not be used mainly for commercial purpose. It is not in dispute that buildings in question have been sanctioned as buildings for residential purpose only. So, when such is the

position, even as per the D.C. Regulations and provisions of the MRTP Act residential premises can not be converted into commercial premises.

15. In the instant case, all the above mentioned suit flats are being used for commercial purpose and not for residential purpose. In fact, if we see the pleadings we find that at some places Plaintiffs have in fact admitted that there is change of user but according to them such change of user is permissible by D.C. Regulations and the society had not taken any objection for a long time for such use. It is also tried to be suggested that Plaintiffs have obtained necessary licenses for the said premises. However, it is well settled that merely because licenses have been issued by the concerned department or that Plaintiffs have paid taxes that by itself would not legalize a thing or act which is basically illegal and against rules and regulations and the provisions of law. Incidentally, it must be noted that even according to Plaintiff, they are paying charges of electricity and other charges, treating the premises as commercial premises. So, this also establishes that premises are

not being used for residence but the same have been converted for commercial purpose.

16. Once it is held that there is change of user i.e. from residential to commercial, then, defendant No.1 was justified in issuing notice under section 53 (1) of the said Act. It would be worthwhile to see what section-53 says:-

> ***"53. Power to require removal of unauthorized development :-***
> ***(1) where any development of land has been carried out as indicated in sub-section (1) of section 52, the Planning Authority may, subject to the provisions of this section, serve on the owner a notice requiring him, within such period, being not less than one month, as may be specified therein after the service or the notice, to take such steps as may be, specified in the notice.***
> ***(a) in cases specified in clause(a) or (c) of sub-section (1) of section 52, to restore the land to its condition existing before the said development took place,***
> ***(b) in cases specified in clauses(b) or (d) of sub-section (1) of section 52, to secure compliance with the conditions or with the permission as modified :***
> ***Provided that, where the notice requires the discontinuance of any use of land, the Planning Authority shall serve a notice on the occupier also.***

(2) In particular, such notice may, for purposes of sub-section (1), require-
(a) the demolition or alteration of any building or works;
(b) the carrying out on land of any building or other operations; or
(c) the discontinuance of any use of land.

(3) Any person aggrieved by such notice may, within the period specified in the notice and in the manner prescribed, apply for permission under section 44 for retention on the land of any building or works or for the continuance of any use of the land, to which the notice relates, and pending the final determination or withdrawal of the application, the mere notice itself shall not affect the retention of buildings or works or the continuance of such use.

(4) The foregoing provisions of this Chapter shall, so far as may be applicable apply, to an application made under sub-section (2).

(5) If the permission applied for is granted, the notice shall stand withdrawn; but if the permission applied for is not granted, the notice shall stand; or if such permission is granted for the retention only of some buildings, or works, or for the continuance of use of only a part of the land, the notice shall stand withdrawn as respects such buildings or works or such part of the land, but shall stand as respects other buildings or works or

other parts of the land, as the case may be, and thereupon, the owner shall be required to take steps specified in the notice under sub-section (1) as respects such other buildings, works or part of the land.

(6) If within the period specified in the notice or within the same period after the disposal of the application under sub-section (4), the notice or so much of it as stand is not complied with, the planning Authority may-

(a) prosecute the owner for not complying with the notice; and where the notice requires the discontinuance of any use of land any other person also who uses the land or causes or permits the land to be used in contravention of the notice; and

(b) where the notice requires the demolition or alteration of any building or works or carrying out of any building or other operations, itself cause the restoration of the land to its condition before the development took place and secure compliance with the conditions of the permission or with the permission as modified by taking such steps as the Planning Authority may consider necessary including demolition or alteration of any building or works or carrying out or any building or other operations; and recover the amount of any expenses incurred by it in this behalf from the owner as arrears of land revenue."

Thus, having regard to the facts of the case it is very clear that the MCGB was justified in notice under Section-53(1).

17. The learned Advocate for the Plaintiffs strenuously argued before me that it was necessary for the competent authority to give opportunity to Plaintiffs to put forward their case or to the authority should have issued show cause notice to Plaintiffs. However, the MCGB has not done so and thus, the action taken by MCGB is against the principles of natural justice. It was also submitted by the learned Advocate that the said principles of natural justice have to be followed even in case of administrative action which entails civil consequences as to quasi judicial and judicial function. For this purpose he has placed reliance on a case **Maneka Gandhi V/s. Union of India and another (1978) 1 SCC 248**. The proposition laid down in the said ruling is not disputed and can not be disputed. However, facts of the said case and the facts of the case in hand are quite different. That was a case of impounding of passport and order with

regard to the same was directly passed. However, in the instant case, it must be noted that the MCGB had in fact given one months time to the Plaintiffs to stop the change of user. It was open for them to show to the authority that there was in fact no change of user. However, Plaintiffs did not make any efforts in that behalf. Only one Plaintiff tried to explain the position. However, it is clear that MCGB was not satisfied with the same. So, the above cited case is of no help to the present plaintiffs.

18. It was argued on behalf of the Plaintiff that asking the noticee to seek permission under section-44 of the said Act in fact amounts to compelling him first to admit the position that there is change in user and then seek permission for the same, but when it was the case of the Plaintiff that there was no change of user at all, they were not supposed to seek any permission as contemplated under Section-44 of the said Act. If Plaintiffs had proceeded on the wrong assumption or notion that what they were doing was lawful or permissible then naturally, they must suffer for the same. Here we can not ignore the fact that Plaintiffs

are highly educated persons, they were in fact knowing the relevant provisions. Inspite of the same in breach of the said provisions they converted the residential premises into commercial premises. So, no equitable relief can be granted in their favour.

19. In order to show that it was necessary to give an opportunity to the Plaintiff to put forward their case. The learned Advocate for the Plaintiffs has also placed reliance on a case **S.L. Kapoor V/s. Jagmohan and ors. AIR 1981 Supreme Court 136**. I have carefully gone through the said ruling. It is true that in this ruling it has been observed by the Apex Court that principle of natural justice know of no exclusionary rule dependent on whether it would have made any difference if natural justice had been observed. The non-observance of natural justice is itself prejudice to any man and proof of prejudice independently of proof of denial of natural justice is unnecessary. However, it must be noted that the MCGB has issued notice as per the provisions of section-53(1) of the said Act. In that notice, it was amply made clear as to what purpose

and on what ground the notice was issued. Further time of one month was also given to the Plaintiffs to stop the change of user. So, under such circumstances, the Plaintiff could have very well pointed out to the competent authority as to why the notice should not be implemented and why the notice issued is incorrect. In the above cited ruling direct action was taken under section-238 of the Punjab Municipal Act. There was nothing to indicate by way of correspondence or otherwise to show as to why the action under section-238 was taken against New Delhi Municipal Committee. So, under those peculiar circumstances it was held that opportunity should have been given to the committee before passing order under section-238 of the Punjab Municipal Act. So, under such circumstances, I do not think that the above cited case is of any help to the present Plaintiff. Similarly, the other case i.e. **Food Corporation of India V/s. State of Punjab and ors. AIR 2001 Supreme Court 250** on which reliance has been placed by the learned Advocate for the Plaintiff is not useful to Plaintiffs because the fats of the said case and the facts of the case in hand are different. In

that case, assessment of immovable property was amended but no notice was given to the concerned party nor reasons or grounds for amendment of assessment were given. So, under such circumstances, it was observed that opportunity should have been given to the assessee.

20. It is tried to be argued on behalf of the plaintiff that if temporary injunction is not granted the Plaintiff would be deprived of their livelihood. However, we can not ignore the fact that Plaintiffs are doctors. Even if they are not allowed to conduct polyclinic in their flats that would not amount to depriving them from their livelihood. So, the case namely **Olga Tellis and others V/s. Bombay Municipal Corporation and ors. And Vayyapuri Kuppusami and ors. V/s. State of Maharashtra and ors. AIR 1986 Supreme Court 180** are of no help to the present Plaintiff.

21. Shri Kamdar, learned Advocate for the Plaintiff strenuously argued before me that in the instant case, the Court had not framed any preliminary issue with

regard to jurisdiction in view of the contention raised by the defendant that in view of the provisions of Section-149 of the said Act, Plaintiffs are not entitled to file the present suit and even then learned Trial Judge has recorded finding on the said issue. It is true that no preliminary issue was sought by either party and learned Trial Judge also did not frame any preliminary issue regarding jurisdiction. However, that does not mean that the Court can not look into that aspect while finding out as to whether Plaintiff has made out a prima facie case and whether discretionary relief can be granted by the Court. So, under such circumstances, cases cited namely **Meher Singh V/s. Deepak Sawhny and another 1998 (3) Maharashtra Law Journal 940 and Jagdish Hari Thatte and ors. V/s. Municipal Corporation of Greater Bombay and ors. 2007 (1) Bom.C.R. 577** are of no help to the Plaintiffs.

22. Reliance is also placed on behalf of the Plaintiff on a case **Raja Bahadur Motilal and another V/s. State of Maharashtra and ors. 2003 (1) Bom.C.R. 251** wherein it is held that section-149 of the said Act

has limited application to orders for grant/refusal of permission. It does not bar parties from challenging deemed permission under Section 45(5) of the said Act. Here there is no question of application of Section-45 (5) of the said Act. Out of four Plaintiffs, it is only in AO-297 of 2007 Dr.Nainani had submitted an application for regularization of the change of use. However, the said application is rejected by the Competent Authority i.e MCGB. The defendant has filed affidavit to that effect. If we consider the said Section-45(5) and in particular the proviso to the said section, then it is very clear that plaintiff is not entitled to say that deemed permission has been obtained by him in respect of the change of user caused by him. It would be worthwhile to see the Section-45. It runs as follows –

> ***"45. Grant or refusal of permission :- (1) On receipt of an application under Section 44 the Planning Authority may, subject to the provisions of this Act by order in writing –***
> ***(i) grant the permission, unconditionally;***
> ***(ii) grant the permission, subject to such general or special conditions as it may impose with the previous approval of the State Government; or***
> ***(iii) refuse the permission.***

(2) Any permission granted under sub-section (1) with or without conditions shall be contained in a commencement certificate in the prescribed form.
(3) Every order granting permission subject to conditions, or refusing permission shall state the ground for imposing such conditions or for such refusal.
(4) Every order under sub-section (1) shall be communicated to the applicant in the manner prescribed by regulations.
(5) If the Planning Authority does not communicate its decision whether to grant or refuse permission to the applicant within sixty days from the date of receipt of his application, or within sixty days from the date of receipt of reply from the applicant in respect of any requisition made by the Planning Authority, whichever is later, such permission shall be deemed to have been granted to the applicant on the date immediately following the date of expiry of sixty days.
{Provided that, the development proposals for which the permission was applied for, is strictly in conformity with the requirements of all the relevant Development Control Regulations framed under this Act or bye-laws or regulations framed in this behalf under any law for the time being in force and the same in no way violates either the provisions of any draft or final plan or the same in no way violates either the provisions of any draft or final plan or proposals published by means of notice, submitted for sanction under this Act.

Provided further that, any development carried out in pursuance of such deemed permission which is in contravention of the provisions of the first proviso, shall be deemed to be an unauthorized development for the purposes of sections 52 to 57}"

23. Shri Walawalkar, learned Senior Advocate for the Respondent-original defendants submitted that defendants after following the due procedure, issued notice under section-53(1) of the said Act. It is also clear from the material on record that Plaintiffs have in fact, converted the residential flats into polyclinics and thus flats which were meant for residential purpose were being used for commercial purpose against the provisions of the said Act and the D.C. Regulations. So, the said action of the defendant MCGB can not be challenged by the Plaintiff in the Civil Court under section-149 of the said Act. The said section runs as follows :-

"149. Finality of orders - Save as otherwise expressly provided in this Act, every order passed or direction issued by the State Government or order passed or notice issued by any Regional Board, Planning Authority or Development Authority under this Act

shall be final and shall not be questioned in any suit or other legal proceedings."

So, prima facie it appears that Plaintiffs are in fact not entitled to challenge notice issued under Section-53(1) of the said Act in the Civil Court. Even in a case **Bales Sardara Paracha V/s. Municipal Corporation of Greater Bombay and another 2005(4) Bom.C.R.577** it has been held by this Court that appeal against the dismissal of declaratory suit filed against notice for demolition of unauthorized structure is not maintainable and the jurisdiction of Civil Court is in fact barred in such cases.

24. Thus, having regard to all these facts and circumstances and the position of law, I am of the view that the orders passed by the learned Trial Judge are legal and correct. It can not be said that the said orders are arbitrary or capricious or the same are not borne out from the material on record. So, there is no necessity to interfere with the said orders in the present appeals. Hence, I pass the following order :-

O R D E R

Appeals are dismissed with costs.

At this stage, learned Advocate for the Appellant submitted that during the period for last about 3 years there was protection to the plaintiffs and the interim relief granted earlier by this court be continued till 30/11/2007. Hence interim relief granted to Plaintiffs is to continue till 30.11.2007.

(S.R. SATHE,J.)